

7 Official Opinions of the Compliance Board 121 (2011)

Minutes – Generally – Preparation following all meetings, required.

Minutes – Procedures – Failure to review and approve minutes; failure to produce

March 10, 2011

Complainant:
Deirdra A. Haywood

Respondent:
City of Glen Arden
Youth Advisory Committee

The Open Meetings Compliance Board has considered the allegations of Ms. Deirdra A. Haywood, (“Complainant”), that the City of Glenarden Youth Advisory Committee (“YAC”) violated the Open Meetings Act by failing to properly maintain and provide public access to the minutes of its meetings.¹ The City, responding on behalf of the YAC, has provided to the Complainant and the Board copies of the minutes of ten of its meetings.

On the basis of the parties’ submissions, we conclude that while the YAC took, maintained, and produced minutes for many meetings, the YAC violated the Act by not doing so for every meeting and in a timely manner. As we shall explain below, the YAC should have taken minutes for every meeting, kept records of any actions it took to approve those minutes, and maintained its minutes in a form and location which would have allowed for prompt public access.

As we shall also explain, however, some of the difficulties in this case were occasioned by the fact that the City officials to whom the Complainant turned for YAC’s minutes were not members of the YAC, which was the entity responsible for maintaining them. Where, as here, a local government

¹ While the Complainant alleges that her complaint “concerns” the City’s Mayor, the allegations pertain to the conduct of a committee of which the Mayor is not a member. We shall look to the substance of the complaint and treat it as a complaint against the committee itself. The Mayor is not a multimember body subject to the Act, and we do not find that she violated it.

structures an unfunded advisory committee of citizens as a public body subject to the Open Meetings Act, we suggest that measures be taken to provide that body with a repository for minutes and with a means of providing citizens with access to them. It appears that the City has undertaken some of these measures with respect to the YAC's past minutes.

I

Background

The Glenarden City Council established the Youth Advisory Committee by resolution on November 9, 2009 to "develop and implement a plan for the City to bring programs and services to City youths." According to the City, the YAC is unfunded, and one of its functions is to raise funds for events for the City's youth. The YAC is comprised of five members, each appointed by the Mayor and confirmed by the City Council.

The YAC held meetings from February, 2010 through October 21, 2010. According to the YAC, it held an organizational meeting at which "[i]t was agreed ... that the task of keeping minutes would be shared amongst the committee members, due to fluctuations in who could attend the meetings." We have not been provided with minutes for that meeting. The City further states, "The minutes were not kept in one consolidated place, but instead were kept by the individual who had kept the minutes during the meeting."

On October 13, 2011, the Complainant sent an e-mail request to the City Manager for "copies of all minutes from the Youth Advisory Committee meetings." The City Manager responded that she was not the custodian of the minutes and would convey the request to the Mayor. According to the City, the Mayor "began the task of collecting the minutes in order to respond to the request and to consolidate the location of the minutes." Further, the City states, "[t]he minutes that were in handwriting or otherwise not organized were put into a typed format." The City provided those documents to the Complainant on January 10, 2011, the day on which the Open Meetings Compliance Board forwarded the Complainant's complaint to the YAC's Chair.

The City has provided us with minutes for ten meetings, dating from May 5, 2010 through October 21, 2010. It does not appear from these submissions that the YAC ever acted to adopt these minutes. The YAC's current status is unclear; the City states only, "YAC is currently not fully staffed with members."

II

Discussion

The YAC's status as a "public body" under the Act - in this case, a public body created by resolution - is not disputed. The only question before us is whether this public body complied with the procedures mandated by the Act for preparing, maintaining, and providing access to minutes of its meetings. We recently explained those procedures as follows:

The Open Meetings Act requires that written minutes of a meeting of a public body ... be prepared "[a]s soon as practicable after a public body meets." §10-509(b). The minutes should be in a format that includes at least the information required by the Act - that is, each item considered at the meeting, any action that the [public body] took on an item, and each vote that was recorded. §10-509(c)(1). Minutes should also includ[e] certain basic information concerning any closed sessions. *See* §10-509(c)(2). Although special circumstances may occasionally result in some delay, preparation and approval of minutes should normally occur on a cycle that parallels the public body's meetings - that is, the public body should ordinarily review and approve minutes for a meeting at the next subsequent meeting. *See* 6 *OMCB Opinions* 85, 87-88 (2009). Once draft minutes are adopted by a public body, they are to be open to public inspection during regular business hours. §10-509(d).

7 *OMCB Opinions* 80, 81 (2011). We have further explained that the Act requires a public body to make its minutes available "with reasonable promptness," 6 *OMCB Opinions* at 88, and that the public entity is not obliged to convert handwritten minutes to typewritten minutes. 1 *OMCB Opinions* 63, 64 (1994).

The application of these principles to the facts before us does not require lengthy discussion. Those facts establish that the YAC did not prepare minutes for every meeting.² With respect to the minutes YAC did prepare, the facts

² The possibility exists that the YAC's organizational meeting concerned only administrative matters not subject to the Act. *See* § 10-503 of the State Government Article. The City has not made that claim, however, and we lack the facts upon which to make such a determination.

further establish that the YAC either never approved those minutes or never recorded such approvals. In any event, from the City's statement that the YAC's minutes, once collected from the various members, had to be "organized" for public access, we conclude that the YAC did not prepare, approve, and maintain its minutes in such a way as to make them available to the public with reasonable promptness. The YAC was not required to create a typewritten version of its minutes.

III

Conclusion

The YAC's statement that its members attempted to comply with the Act is evidenced by its production of minutes for ten of its meetings. We conclude that, despite those volunteers' efforts, the YAC violated the Act by variously failing to prepare, approve, and provide reasonably prompt access to its minutes. We further acknowledge the City's efforts to assemble the YAC's materials and hope that the City will continue to assist its volunteers to comply with the Act.

OPEN MEETINGS COMPLIANCE BOARD

Elizabeth L. Nilson, Esquire

Courtney J. McKeldin

Julio A. Morales, Esquire